

UNITED STATES DISTRICT COURT

for the

Eastern District of North Carolina

United States of America

v.

Antroid Green

Case No: 5:04-CR-62-3BR

USM No: 24251-056

Date of Original Judgment: January 11, 2005

Date of Previous Amended Judgment: October 16, 2015

(Use Date of Last Amended Judgment if Any)

Joseph Ross

Defendant's Attorney

**ORDER REGARDING MOTION FOR SENTENCE REDUCTION
PURSUANT TO 18 U.S.C. § 3582(c)(1)(B)**

Upon motion of ☒ the defendant ☐ the Director of the Bureau of Prisons ☐ the court under 18 U.S.C. § 3582(c)(1)(B) for a modification of an imposed term of imprisonment to the extent otherwise expressly permitted by statute and as provided by Section 404 of the First Step Act of 2018, and having considered such motion, and taking into account the sentencing factors set forth in 18 U.S.C. § 3553(a), to the extent that they are applicable,

IT IS ORDERED that the motion is:

☐ DENIED. ☒ GRANTED and the defendant's previously imposed sentence of imprisonment (as reflected in the last judgment issued) of n/a months is reduced to n/a.

(Complete Parts I and II of Page 2 when motion is granted)

The term of supervised release is reduced to 4 years in Count 4, concurrent with the 5-year term imposed in Count 5.

See also page 1*.

If the amount of time the defendant has already served exceeds this sentence, the sentence is reduced to a "Time Served" sentence, subject to an additional period of up to ten (10) days for administrative purposes of releasing the defendant.

Except as otherwise provided, all provisions of the judgment(s) dated January 11, 2005, May 28, 2014, and October 16, 2015, shall remain in effect. **IT IS SO ORDERED.**

Order Date: 6/28/2019Effective Date: _____
(if different from order date)

W. Earl Britt Senior U.S. District Judge

Printed name and title

Defendant was charged with, and convicted of, distribution of more than 50 grams of cocaine base and aiding and abetting the same in violation of 21 U.S.C. § 841(a)(1) and 18 U.S.C. § 2 (Count 4) and possession of a firearm in furtherance of a drug trafficking crime in violation of 18 U.S.C. § 924(c) (Count 5), with all conduct concluding in 2000. At the time of sentencing, the applicable statutory penalties for Count 4 were not less than 10 years nor more than life imprisonment and 5 years to life supervised release. The Fair Sentencing Act of 2010 modified those penalties to not less than 5 years nor more than 40 years imprisonment and 4 years to life supervised release. Accordingly, the court concludes that defendant is eligible for relief under the First Step Act of 2018. See *United States v. Davis*, No. 07-CR-245S(1), 2019 WL 1054554, at *2 (W.D.N.Y. Mar. 5, 2019). Although defendant is eligible for relief, he is not entitled to plenary resentencing. *Id.*

In 2005, the court determined that defendant's guideline range on Count 4 was 235-293 months imprisonment and 5 years supervised release. The court sentenced defendant to 235 months imprisonment on Count 4; 60 months imprisonment on Count 5, to run consecutively to the term on Count 4; 5 years supervised release on both Counts, to run concurrently; and a fine of \$14,300. In 2014, on defendant's motion pursuant to 18 U.S.C. § 3582(c)(2), the court concluded defendant's amended guideline imprisonment range on Count 4 was 188-235 months and reduced defendant's sentence of imprisonment on that Count to the low end of that range, 188 months. In 2015, on defendant's second § 3582(c)(2) motion, the court concluded defendant's amended guideline imprisonment range on Count 4 was 151-188 months and reduced defendant's sentence of imprisonment on that Count to the low end of that range, 151 months.

Under the First Step Act, considering the new statutory penalties for Count 4 as if they were in effect at the time defendant committed the subject offense, defendant's reduced guideline range for imprisonment is the same as the amended guideline range determined on defendant's second § 3582(c)(2) motion; however, defendant's reduced guideline range for supervised release is 4 years. The court, in its discretion, declines to reduce defendant's term of imprisonment below the reduced guideline range. Defendant's term of imprisonment on Count 4 remains 151 months. The term of supervised release on Count 4 is reduced to 4 years. The First Step Act is inapplicable to Count 5, and the sentence for that offense remains the same. The First Step Act has no effect on defendant's fine.